

West's Idaho Code Annotated
Title 32. Domestic Relations
Chapter 7. Divorce Actions

I.C. § 32-717

§ 32-717. Custody of children--Best interest

Currentness

(1) In an action for divorce the court may, before and after judgment, give such direction for the custody, care and education of the children of the marriage as may seem necessary or proper in the best interests of the children. The court shall consider all relevant factors which may include:

- (a) The wishes of the child's parent or parents as to his or her custody;
 - (b) The wishes of the child as to his or her custodian;
 - (c) The interaction and interrelationship of the child with his or her parent or parents, and his or her siblings;
 - (d) The child's adjustment to his or her home, school, and community;
 - (e) The character and circumstances of all individuals involved;
 - (f) The need to promote continuity and stability in the life of the child; and
 - (g) Domestic violence as defined in [section 39-6303, Idaho Code](#), whether or not in the presence of the child.
- (2) If the parent has a disability as defined in this section, the parent shall have the right to provide evidence and information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The court shall advise the parent of such right. Evaluations of parental fitness shall take into account the use of adaptive equipment and supportive services for parents with disabilities and shall be conducted by, or with the assistance of, a person who has expertise concerning such equipment and services. Nothing in this section shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities.
- (3) In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interests of the child.

(4) As used in this chapter:

(a) “Adaptive equipment” means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(b) “Disability” means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the effect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) “Supportive services” means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as braille texts or sign language interpreters.

(5) Nothing in this chapter shall be construed to allow discrimination on the basis of disability. In any case where the disability of a parent is found by the court to be relevant to an award of custody of a child, the court shall make specific findings concerning the disability and what effect, if any, the court finds the disability has on the best interests of the child.

(6) With reference to this section, when an active member of the Idaho national guard has been ordered or called to duty as defined in [section 46-409, Idaho Code](#), or when a member of the military reserve is ordered to active federal service under title 10, United States Code, such military service thereunder shall not be a substantial or material and permanent change in circumstance to modify by reducing the member's previously decreed child custody and visitation privileges.

Credits

Terr. Sess. 1875, p. 639, § 7; S.L. 1980, ch. 378, § 3; [S.L. 1992, ch. 228, § 1](#); [S.L. 1995, ch. 128, § 1](#); [S.L. 2002, ch. 232, § 1](#); [S.L. 2003, ch. 250, § 1](#); [S.L. 2007, ch. 108, § 1](#), eff. July 1, 2007.

Codifications: R.S. 1887, § 2473; R.C. 1909 and C.L. 1919, § 2663; C.S. 1919, § 4643; [I.C.A. § 31-705](#).

[Notes of Decisions \(334\)](#)

I.C. § 32-717, ID ST § 32-717

Current through (2013) Chs. 1-354 (End)

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Title 32. Domestic Relations
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I.C. § 32-717A

§ 32-717A. Parents' access to records and information

[Currentness](#)

Notwithstanding any other provisions of law, access to records and information pertaining to a minor child including, but not limited to, medical, dental, health, and school or educational records, shall not be denied to a parent because the parent is not the child's custodial parent. However, information concerning the minor child's address shall be deleted from such records to a parent, if the custodial parent has advised the records custodian in writing to do so.

Credits

S.L. 1982, ch. 311, § 2; [S.L. 1998, ch. 151, § 1](#).

I.C. § 32-717A, ID ST § 32-717A

Current through (2013) Chs. 1-354 (End)

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I.C. § 32-717B

§ 32-717B. Joint custody

Currentness

(1) "Joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent and continuing contact with both parents. The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint custody, the court shall state in its decision the reasons for denial of an award of joint custody.

(2) "Joint physical custody" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties.

Joint physical custody shall be shared by the parents in such a way to assure the child a frequent and continuing contact with both parents but does not necessarily mean the child's time with each parent should be exactly the same in length nor does it necessarily mean the child should be alternating back and forth over certain periods of time between each parent.

The actual amount of time with each parent shall be determined by the court.

(3) "Joint legal custody" means a judicial determination that the parents or parties are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of a child or children.

(4) Except as provided in subsection (5), of this section, absent a preponderance of the evidence to the contrary, there shall be a presumption that joint custody is in the best interests of a minor child or children.

(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in [section 39-6303, Idaho Code](#).

Credits

S.L. 1982, ch. 311, § 3; S.L. 1994, ch. 340, § 2.

[Notes of Decisions \(26\)](#)

I.C. § 32-717B, ID ST § 32-717B

Current through (2013) Chs. 1-354 (End)

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I.C. § 32-717C

§ 32-717C. Allegations of abuse--Investigation

Currentness

When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court shall order that an investigation be conducted by the department of health and welfare. A final award of custody or visitation may not be rendered until a report on that investigation is received by the court. That investigation shall be conducted by the department within thirty (30) days of the court's notice and request for investigation.

Credits

S.L. 1995, ch. 275, § 1.

Notes of Decisions (1)

I.C. § 32-717C, ID ST § 32-717C

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I.C. § 32-717D

§ 32-717D. Parenting coordinator

Currentness

(1) Provided that a court has entered a judgment or an order establishing child custody in a case, the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or children of the parties, and as set forth within the order of appointment. The court shall direct the parenting coordinator to provide a status report to the court at a time and in a manner as determined by the court. Provided however, that the court shall require the parenting coordinator to provide a minimum of one (1) status report to the court at least once every six (6) months. At any time during the period of appointment, the court, on its own initiative, or upon request of the parenting coordinator or either party, may hold a status conference to review the continued appointment of the coordinator and/or the status of the case.

(2) Qualification, selection, appointment, termination of appointment, and prescribed duties and responsibilities of a parenting coordinator shall be based upon standards and criteria as adopted by the Idaho supreme court. Provided however, that standards and criteria for qualification and selection of a parenting coordinator, as adopted by the Idaho supreme court, shall not apply to a parenting coordinator selected and agreed to by the parties. In addition, as a condition of any appointment, a parenting coordinator shall:

(a) Be neutral to the dispute and to the parties;

(b) Be either selected pursuant to agreement of the parties or appointed by the court; and

(c) Prior to any appointment, and at their own cost, have submitted to a criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau, the federal bureau of investigation criminal history check, the national crime information center and the statewide sex offender register. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant and shall be available for review by the court considering a parenting coordinator appointment prior to an appointment.

(3) In addition to those duties as authorized by the court pursuant to the order of appointment, the responsibilities of a parenting coordinator shall include collaborative dispute resolution in parenting. The parenting coordinator shall act to empower the parties in resuming parenting controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children.

(4) The court shall allocate the fees and costs of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable costs, fees and disbursements of the parenting coordinator. Any dispute regarding

payment of the fees and costs of the parenting coordinator shall be subject to review by the court upon request of the parenting coordinator or either party.

Credits

[S.L. 2002, ch. 108, § 1](#). Amended by [S.L. 2012, ch. 45, § 1](#), eff. July 1, 2012.

[Notes of Decisions \(7\)](#)

I.C. § 32-717D, ID ST § 32-717D

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I.C. § 32-717E

§ 32-717E. Supervised access providers--Record checks

Currentness

In cases in which a court has ordered that contact between a person and one (1) or more children shall take place only in the presence of an approved provider, or where the court has ordered supervised exchanges or transfers of one (1) or more children, the court may appoint an individual or entity as a supervised access provider to provide such supervised access or to facilitate such exchanges or transfers. The qualifications and duties of supervised access providers shall be as specified in rules adopted by the supreme court. A supervised access provider who is paid for providing supervised access services shall, prior to acting in such capacity and at his or her own cost, submit to a fingerprint-based criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau check, federal bureau of investigation criminal history check, child abuse registry check, adult protection registry check and statewide sex offender registry check. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho.

Credits

Added by [S.L. 2007, ch. 106, § 1, eff. July 1, 2007](#).

I.C. § 32-717E, ID ST § 32-717E

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I.C. § 32-718

§ 32-718. Vexatious or harassing modification proceedings

[Currentness](#)

Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification proceeding is vexatious and constitutes harassment.

Credits

S.L. 1980, ch. 378, § 10.

[Notes of Decisions \(3\)](#)

I.C. § 32-718, ID ST § 32-718

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West's Idaho Code Annotated
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I.C. § 32-719

§ 32-719. Visitation rights of grandparents and great-grandparents

[Currentness](#)

The district court may grant reasonable visitation rights to grandparents or great-grandparents upon a proper showing that the visitation would be in the best interests of the child.

Credits

[S.L. 1994, ch. 407, § 1.](#)

I.C. § 32-719, ID ST § 32-719

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Chapter 7. Divorce Actions

I.C. § 32-720

§ 32-720. Petitions for modification--Child custody orders--Servicemembers

Currentness

(1) In the event a petition for modification of a child custody order is filed during the time that the court action may be subject to the servicemembers civil relief act, [50 U.S.C. App. section 501 et seq.](#), because one (1) of the parties is a servicemember as defined in said act, the court shall determine if said act applies to the action pursuant to the jurisdiction provisions of the act. If the court determines that the act does apply, the court shall thereafter act in compliance with the terms of said act and, in addition, the following shall apply to the extent not in violation of said act:

(a) If the court determines that modification is in the best interest of the child pursuant to the provisions of [section 32-717, Idaho Code](#), and the party who is a servicemember is deployed, the court may only enter an order or decree temporarily modifying the existing child custody order during the period of deployment, and upon completion by the servicemember of the period of deployment, the order or decree shall expire sixty (60) days after notification to the court, and to all persons entitled to notice in the action, of the deployed servicemember's completion of deployment. Provided however, that:

(i) The court may thereafter conduct an expedited or emergency hearing for resolution of the child's custody on the filing of a motion, filed prior to the expiration of the order, alleging that it would not be in the best interests of the child pursuant to the provisions of [section 32-717, Idaho Code](#), if the order expires;

(ii) If a motion is so filed, the temporary order shall be extended until the court rules on the motion; and

(iii) Following the return from deployment of a deploying parent and until the temporary order for child custody is terminated, the court shall enter a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interests of the child pursuant to the provisions of [section 32-717, Idaho Code](#).

(b) If the deployment of a party who is a servicemember affects the party's ability or anticipated ability to appear at a regularly scheduled hearing related to a petition for modification of child custody, the court may provide for an expedited hearing to allow the servicemember to appear.

(c) If the deployment of a party who is a servicemember prevents the servicemember from appearing in person at a hearing related to a petition for the modification of child custody, the court may provide, upon reasonable advance notice to the parties, for the servicemember to present testimony and evidence by electronic means, if such can be done without prejudice to the ability of the servicemember to adequately and reasonably present such testimony and evidence.

(2) For purposes of this section:

(a) “Deployed” or “deployment” means military service performed in compliance with a valid order received by an active duty or reserve member of the armed services of the United States, national guard or United States coast guard to report for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty or other active service for which the deploying party reports. The term shall include those members who are actually deployed as well as those members with valid orders preparing to be deployed;

(b) “Electronic means” includes communication by telephone, video teleconference or the internet.

Credits

Added by [S.L. 2013, ch. 215, § 1, eff. July 1, 2013](#).

I.C. § 32-720, ID ST § 32-720

Current through (2013) Chs. 1-354 (End)

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West's Idaho Code Annotated
Title 32. Domestic Relations
Chapter 10. Parent and Child (Refs & Annos)

I.C. § 32-1005

§ 32-1005. Custody of children after separation of parents

Currentness

(1) When a husband and wife live in a state of separation, without being divorced, any court of competent jurisdiction, upon application of either, if an inhabitant of this state, may inquire into the custody of any unmarried minor child of the marriage, and may award the custody of such child to either, for such time and under such regulations as the case may require. The decision of the court must be guided by the welfare of the child.

(2) As used in this chapter:

(a) “Adaptive equipment” means any piece of equipment or any item that is used to increase, maintain or improve the parenting capabilities of a parent with a disability.

(b) “Disability” means, with respect to an individual, any mental or physical impairment which substantially limits one (1) or more major life activities of the individual including, but not limited to, self-care, manual tasks, walking, seeing, hearing, speaking, learning or working, or a record of such an impairment, or being regarded as having such an impairment. Disability shall not include transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, other sexual behavior disorders, substance use disorders, compulsive gambling, kleptomania or pyromania. Sexual preference or orientation is not considered an impairment or disability. Whether an impairment substantially limits a major life activity shall be determined without consideration of the affect of corrective or mitigating measures used to reduce the effects of the impairment.

(c) “Supportive services” means services which assist a parent with a disability to compensate for those aspects of their disability which affect their ability to care for their child and which will enable them to discharge their parental responsibilities. The term includes specialized or adapted training, evaluations, or assistance with effective use of adaptive equipment, and accommodations which allow a parent with a disability to benefit from other services, such as braille texts or sign language interpreters.

(3) Nothing in this chapter shall be construed to allow discrimination on the basis of disability. If a parent has a disability as defined in this chapter the parent shall have the right to provide evidence and information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child. The court shall advise the parent of such right. Nothing in this section shall be construed to create any new or additional obligations on state or local governments to purchase or provide adaptive equipment or supportive services for parents with disabilities. In any case where the disability of a parent is found by the court to be relevant to an award of custody of a child, the court shall make specific findings concerning the disability and what affect, if any, the court finds the disability has on the best interests of the child.

Credits

[S.L. 2002, ch. 232, § 2.](#)

Codifications: R.S. 1887, § 2534; R.C. 1909 and C.L. 1919, § 2698; C.S. 1919, § 4679; [I.C.A. § 31-1005](#).

[Notes of Decisions \(6\)](#)

I.C. § 32-1005, ID ST § 32-1005

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